

FEB 22 2006

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FAX COVER SHEET

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Date:	February 22, 2006		
To:	Commissioner for Patents	Fax:	(571) 273-8300
From:	Patricia Powell	Fax:	(901) 867-4398
Number of pages including cover sheet:	5	Phone:	(901) 867-4542

Certificate of Transmission

In Re. Application of:

Art Unit: 3733

J. David Blaha

Our Ref.: 702.118

Application No.: 10/764,726

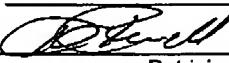
Examiner: Mary C. Hoffman

Filed: 01/26/2004

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For: Compacting Broach

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Transmittal Form - 1 pg.
 Response to Restriction Requirement - 3 pgs.

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PTO/SB/21 (09-04)

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**TRANSMITTAL
FORM**

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

Application Number	10/764,726
Filing Date	01/26/2004
First Named Inventor	J. David Blaha
Art Unit	3733
Examiner Name	Mary C. Hoffman
Total Number of Pages in This Submission	5
Attorney Docket Number	702.118

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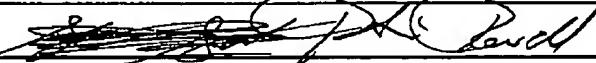
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<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
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<input type="checkbox"/> Reply to Missing Parts/ Incomplete Application	<input type="checkbox"/> Landscape Table on CD	
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Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Wright Medical Technology, Inc.		
Signature			
Printed name	Shawn D. Sentilles		
Date	February 22, 2006	Reg. No.	38,299

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IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE

APPLICANT: J. David Blaha

FILING DATE: 01/26/2004

TITLE: Compacting Broach

APPLICATION NO.: 10/764,726

EXAMINER: Mary C. Hoffman

ART UNIT: 3733

ATTORNEY DOCKET NO.: 702.118

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FILED VIA FACSIMILE (571-273-8300)

Mail Stop Amendment
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RESPONSE TO RESTRICTION REQUIREMENT

Applicant responds as follows to restriction and election requirements set forth in the Office Action mailed January 23, 2006.

Restriction Requirement

The Examiner requires restriction between Invention I (claims 1-10) and Invention II (claims 11-12). Applicant traverses the restriction requirement, and provisionally elects Invention I (claims 1-10).

Applicant traverses the restriction requirement on grounds that the Commissioner has not met its burden of establishing a *prima facie* basis as to why Invention I and Invention II are independent and distinct. The Examiner bases restriction solely on the following position: "In this case the apparatus as claimed can be used to practice another and materially different process, for example, the broach can be used to cut other areas in the body." It is important to note that instrument claims 1-10 and method claims 11-12 are both specifically drawn to a

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